THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :5158 OF 2005

DATED:21-08-2007

BETWEEN:

Devarapu Gandhi Chowdary.

.....
PETITIONER

AND

The Station House Officer,
Guntur Rural Police Station,
Guntur District & 3 others.

.....RESPONDENTS

_
_
_
_

ORDER:

Heard learned counsel appearing for the petitioner; learned Government Pleader for Home; and learned Government Pleader for Revenue appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the respondents 1 and 2 in interfering with the civil dispute existing with respect to the land purchased by the petitioner and seven others, taking decisions, and trying to enforce the same, as illegal, and arbitrary.

3. There are certain *inter se* disputes with regard to the property of an extent of Ac.1.16 ½ cents out of Ac.3.50 cents in Sy.No.64 of Koritepadu village, Guntur mandal. Petitioner claims 1/3rd share of Ac.3.50 cents i.e., Ac.1.16 ½ cents, and 5th respondent claims an extent of Ac.2.00 out of the said property. It is stated that there is some dispute with regard to the identity and location of the said property. Admittedly, no civil suits are filed by either of the parties. On a complaint lodged by the 5th respondent against the petitioner and his followers on 31-01-2007 received by the 1st respondent on

03-02-2007 alleging that the 5th respondent purchased an extent of Ac.1.99 cents with clear demarcation in 1982 and the Society

allotted plots to the individual members in January, 1987 and the said land is under peaceful possession and enjoyment of the 5th respondent and whileso, on

22-01-2007 about 10 to 15 persons came there with deadly weapons like sticks, crowbars, and tried to assault them by abusing them in filthy language and beat them indiscriminately, Cr.No.25 of 2002 was registered under Sections 144, 447, 352 and 506 r/w 34 IPC on 03-02-2007 and investigation has been taken up by the 1st respondent. It is stated that the sister of the petitioner namely P.Venkata Saroji also lodged a private complaint which was referred for enquiry and report under Section 156(3) Cr.P.C., and accordingly the said complaint was registered in Cr.No.57 of 2007 under Sections 447, 354 r/w 34 IPC and

Section 156(3) Cr.P.C. and investigation has been taken up. It is stated that investigation is going on in both the cases.

4. The only grievance of the petitioner is that the investigation in the pending criminal cases may go on but under the guise of investigation the civil rights of the petitioner cannot be interfered with. It is further stated that the 2nd respondent-Tahsildar, Guntur addressed a letter in Rc.No.451/2007/DMR.No.A, dated 26-02-2007, stating that the 5th respondent herein made an application stating that they are in possession of Ac.1.99 cents in Sy.Nos.63, 64 and 65 and in the said land petitioner and others are carrying certain construction activities and accordingly requested to remove the said encroachment. Petitioner also made a representation, dated 03-02-2007, stating that he has purchased Ac.1.16 ½ cents out of Ac.3.50 cents in Sy.No.64 and the 5th

respondent made an illegal complaint for removal of his construction from the said land. As both the applications are pending, the Mandal Revenue Officer issued notices for conduct of enquiry and recorded their statements, prepared the sketch, and stated that the petitioner purchased an extent of Ac.16 ½ cents, but no boundaries were mentioned, and the 5th respondent purchased Ac.2.00. In the said letter, the Mandal Revenue Officer reported to the Collector that the land of the petitioner is in the middle of the Sy.No.64 and the land in occupation of the petitioner situated towards northern side belongs to the 5th respondent. It is stated that under the guise of the said criminal case in Cr.No.25/07 police are interfering with the possession of the petitioner.

5. Learned counsel appearing for the 5th respondent submits that the petitioner and others trespassed into the land of the 5th respondent on 22-01-2007 and the members of the 5th respondent were thrown out of the possession and they are in legal occupation of the same and therefore, it is stated that it is always open for the police to restore the possession in favour of the 5th respondent by throwing away the petitioner from possession and occupation of the encroached land.

6. I am unable to accept the said contention as the scope of investigation in the pending criminal case is only to take appropriate action to punish the offenders under the Indian Penal Code. Insofar as the civil rights are concerned, civil Courts alone are entitled to settle the civil disputes, but not the police or the

criminal Courts. Therefore, under the guise of investigation of the criminal case, police cannot interfere with the civil disputes or the civil rights and settle the issues relating to the immovable property. At the same time, investigation in the pending criminal cases cannot be stalled by any means as it is for the Investigating Officer to investigate and file chargesheet in accordance with law.

7. Having regard to the facts and circumstances of the case, Writ Petition is disposed of directing the 1st respondent to complete the investigation in accordance with law and take appropriate action as indicated above. No order as to costs.

_____

V.ESWARAIAH,J

21st August, 2007.
Tsy